



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,572	05/03/2001	Cary Lee Bates	ROC920010079US1	6826

7590 08/24/2004

Gero G. McClellan
Thomason, Moser & Patterson, L.L.P.
3040 Post Oak Boulevard, Suite 1500
Houston, TX 77056-6582

EXAMINER

LANEAU, RONALD

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/848,572

Applicant(s)

BATES ET AL.

Examiner

Ronald Laneau

Art Unit

3627

NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 07072004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendment filed on 06/14/2004 has been entered. Claims 1-41 are still pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tedesco et al (US 6,085,888) in view of Freeney, Jr (US 6,490,443) and further in view of Stone et al (US 6,446,045).

Tedesco et al teach a method of operating a reservation control system for reserving items dispensed by a vending machine comprising the steps of: receiving a reservation request from a vending machine computer for an item (see col. 7, lines 1-13); determining whether the item is available at a vending machine (see col. 6, lines 6-26); and reserving the item by placing a hold on it (see col. 8, lines 3-17 and col. 9, lines 34-50). Tedesco et al further teach the steps of transmitting a message indicating that the reservation request has been accepted and the item is reserved for future pickup, along with a message containing a confirmation number (see Fig. 3B). Tedesco et al further teach the step of updating the removing a reservation request upon determining that the item has been purchased from the vending machine (see Fig. 9). Tedesco et al further teach the use of item identifiers (see Fig. 5). Tedesco et al further teaches the step of

Art Unit: 3627

calculating a service charge, where the charge increases as the length of time of the reservation increases (see Fig. 4).

Tedesco et al do not teach a vending machine network but Freeny, Jr. teaches a computer network that includes vending machines (see Fig. 7), wherein a user can use a computer or wireless telephone to place a vending machine order (see, for example, col. 2, lines 3-46).

Neither Tedesco et al nor Freeny, Jr teaches reserving the item to ensure availability of the item in satisfaction of the reservation request but Stone et al teach a program that ensures availability of an item by allowing a buyer to reserve a product (col. 23, lines 29-31 and 54-59).

It would have been obvious to employ the teachings of Freeny, Jr. with the invention of Tedesco et al to allow users to employ a network to allow users to use multiple vending machines and to place an order through a computer or wireless phone for convenience. It would have been obvious to one of ordinary skill in the art to utilize ensure the availability of an item or a product as taught by Stone et al into the combined device of Tedesco et al and Freeny, Jr because it would allow a buyer to get possession of the reserved item even if there is a change in the availability of said item.

Tedesco et al do not teach data structures, however, data structures are common in the art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ data structures to indicate the number of items available, because data structures are an efficient means of storing data.

Response to Arguments

4. Applicant's arguments with respect to claims 1-41 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to Tedesco at column 9, lines 34-50 are moot in view of the newly added reference that teaches a reserved item or product as claimed (see above rejection). Therefore, the rejection finally stands.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3627

- Paulucci et al (US 2002/0077724) teach various combinations of new and existing technology to create vending machines with a number of improvements.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (703) 305-3973. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RL

Ronald Laneau
Examiner
Art Unit 3627

rl

Ronald Laneau 8/19/04
Primary Examiner